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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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GEORGE S. LOUIE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GEORGE S. LOUIE,
Plaintiff,

vs.

ELENA SADUR, dba STATE FARM
INSURANCE, located at 5167 Clayton Rd,
Concord CA, and RAYMOND
LEHMKUHL; ALVIN LUI, dba STATE
FARM INSURANCE, located at 3409
Mount Diablo Blvd., Lafayette, CA, and
GILBERT LAZZARESCHI; LORI HOCK,
dba STATE FARM INSURANCE, located
at 550 Hartz Ave., Danville, CA, and
RICHARD OLNES and ELIZABETH
OLNESS; STATE FARM BANK, 3 State
Farm Plaza, Bloomington, Illinois, 61791

Defendants.

Case No.: C-08-02304 MEJ

Civil Rights

AMENDED
COMPLAINT FOR VIOLATION OF
CIVIL RIGHTS AND DISCRIMINATION
AGAINST PERSONS WITH
DISABILITIES; AMERICANS WITH
DISABILITIES ACT OF 1990; CAL.
CIVIL CODE §§ 54, ET SEQ.; CAL.
CIVIL CODE §§51, ET SEQ.; CAL.
HEALTH AND SAFETY CODE §§19955,
ET SEQ.; NEGLIGENCE;
DECLARATORY RELIEF; DAMAGES

DEMAND FOR A JURY TRIAL

INTRODUCTION

1. Plaintiff complains of Defendants herein and alleges that:

1 Plaintiff **GEORGE S. LOUIE** complains of Defendants, **STATE FARM BANK**,
2 located at 3 State Farm Plaza, Bloomington Illinois 61791, hereinafter referred to as "**STATE**
3 **FARM**", **ELENA SADUR, dba STATE FARM INSURANCE, located at 5167 Clayton**
4 **Rd, Concord CA and RAYMOND LEHMKUHL**, owner, operator, occupiers, leasee, and or
5 leaser of **premises located at 5167 Clayton Rd, Concord CA ; ALVIN LUI, dba STATE**
6 **FARM INSURANCE, located at 3409 Mount Diablo Blvd., Lafayette, CA. and GILBERT**
7 **LAZZARESCHI**, owner, operator, occupiers, and lessee or leaser of **premises located at 3409**
8 **Mount Diablo Blvd., Lafayette, CA.; LORI HOCK, dba STATE FARM INSURANCE,**
9 **located at 550 Hartz Ave., Danville, CA. and RICHARD OLNES and ELIZABETH**
10 **OLNESS**, owners, operators, maintain s, occupiers and leasee or leaser of **premises located at**
11 **550 Hartz Ave., Danville, CA (Collectively, hereinafter referred to as Defendants)** and each
12 of them and alleges as follows:
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14

15 **JURISDICTION**

16 This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. sections
17 1343(a) (3) and 1343 (a) (4) for claims arising under the Americans With Disabilities Act of
18 1990, 42 U.S.C. sections 12101, et. seq. Plaintiff's cause of action across in this district, Under
19 this doctrine of pendant and supplemental jurisdiction, this Court has jurisdiction over Plaintiff's
20 claims existing under California State law.
21

22 **VENUE**

23 Pursuant to 28 U.S.C. sections 1391 (b), venue is proper in the District in which this
24 Complaint is filed, which is the judicial district in which the claims have arisen. The subject
25 **STATE FARM / STATE FARM** Insurance Offices are public accommodations owned,
26 operated and doing business as public accommodations, conducting business in the, State of
27 California.
28

1 GEORGE S. LOUIE, is **physically a disabled person who uses a wheelchair for**
2 **mobility. Plaintiff** GEORGE S. LOUIE has both a **State Farm Bank** Checking and Savings
3 Account. Since there are no actual **State Farm Branch** Offices available on the west coast,
4 **State Farm Bank** advertises that **State Farm Agents** should provide banking customers with
5 **State Farm Banking** envelopes that are pre-addressed and have pre-paid 1st class postage, to
6 help make banking with **State Farm Bank** more convenient. Plaintiff also has numerous other
7 banking needs which include but are not limited to IRA'S, CDs, Bonds, Mutual Funds, and
8 applications for home loans. Federal Law mandates that Plaintiff must produce identification
9 in person to an actual State Farm Agent when verifying or obtaining any information regarding
10 his accounts. To help the U.S. government fight the funding of terrorism and money laundering
11 activities, under the provisions of Title III-International Money Laundering Abatement and
12 Anti-Terrorist Financing Act of 2001 (USA PATRIOT ACT of 2001) Federal law requires all
13 financial institutions to obtain, verify and record information that identifies each person who
14 opens an account—this must be done inside a **STATE FARM** agent's office.
15

16 Plaintiff further frequently travels California freeways during most of the week and
17 while traveling, frequently needs to conduct banking activities. While traveling California
18 freeways and attempting to conduct **STATE FARM** banking activities on November 29, 2007,
19 at the subject Public Facilities, Plaintiff found that these **STATE FARM** Agents' Offices
20 **located at 5167 Clayton Rd, Concord, CA, 3409 Mount Diablo Blvd., Lafayette, CA, and**
21 **550 Hartz Ave., Danville, CA., did not have accessible parking accommodations as**
22 **required by the Americans with Disabilities Act of 1990 (hereinafter "ADA").** These
23 **STATE FARM** business sites and or **STATE FARM INSURANCE AGENTS' OFFICE** sites
24 **further lacked appropriate signage as required under California law.** This lawsuit is
25 brought to require the Defendants to modify the above mentioned facilities, including parking,
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1 so as to provide to all disabled persons the accessible parking accommodations to which they are
2 entitled under state and federal law.

4 5 **FACTUAL ALLEGATIONS**

6
7 2. California's Unruh Civil Rights Act, Civil Code Section 52 (a) reads as follows:
8 whoever denies, aids or incites a denial, or makes any discrimination or distinction contrary to
9 Section 51, 51.5 or 51.6, is liable for each and every offense for the actual damages, and any
10 amount that may be determined by a jury, or a court sitting without jury, up to a maximum of
11 three times the amount of actual damage but in no case less than four thousand dollars
12 (\$4000.00), and any attorney's fees that may be determined by the court in addition thereto,
13 suffered by and person denied the rights provided in Section 51, 51.5, or 51.6, Amended January
14 1st, 2002.

15 3. The United States Court of Appeals for the Ninth Circuit in Botosan vs. Paul McNally
16 Realty, 216 F. 3rd 827 at 835 (June 20, 2002) held that, "Consumer was entitled to award of
17 statutory minimum damages under California's Unruh Civil Rights Act, even without proof of
18 actual damages", and proof of actual damages is not prerequisite to recovery of statutory
19 minimum damages under California's Unruh Civil Rights Act." West's Ann.Cal.Civ.Code § 52.
20 Plaintiff **GEORGE S. LOUIE** is a "physically handicapped" or physically disabled person who
21 was denied his rights to "full and equal access" to a public facility by Defendants, and each of
22 them, because they maintained and continue to operate public facilities which do not provide
23 proper access for physically disabled persons as required by law. These **STATE FARM** business
24 sites and or **State Farm Agencies** are characterized by numerous architectural barriers, access
25 deficiencies include but are not limited to the following ADDAG violations and California
26 Building violations:
27
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1 **Elena Saddur, dba State Farm, 5167 Clayton Rd, Concord, CA and RAYMOND**
 2 **LEHMKUHL**, owner, operator, occupier and lessee or lessor of **premises located at 5167**
 3 **Clayton Rd, Concord CA.** Violations are no van accessible handicapped parking space and a
 4 painted path of travel from the space to the building entrance; and /or site accessible route of
 5 travel. **CBC 1114B.12**; there is no sign displaying the international symbol of accessibility, that
 6 indicate the direction to accessible building entrance and facilities that **comply with the**
 7 **applicable requirements found in Checklist Section #58 "SIGNS AND**
 8 **IDENTIFICATION", CBC 1127B.1.**

10 There is encroachment into accessible handicapped parking space and access aisle. **CBC**
 11 **1129B.4.3. & 4.78**; No warning signage stating: "Unauthorized vehicles parked in designated a
 12 accessible spaces not displaying distinguishing placards or license plates issued for persons with
 13 disabilities may be towed away at owner's expense. Towed vehicles may be reclaimed at
 14 _____ or by telephoning _____." **CBC1129B.**

16 **ALVIN LUI, dba STATE FARM INSURNACE, located at 3409 Mount Diablo Blvd.,**
 17 **Lafayette, CA and GILBERT LAZZARESCHI**, owner, operator, occupier and leasee or
 18 lessor of said **premises located at 3409 Mount Diablo Blvd., Lafayette, CA.** The violations
 19 are no van handicapped parking place and painted path of travel from the handicapped parking
 20 space to the building entrance/and or site accessible route of travel. **CDB 1114B.1.2**; there is no
 21 sign displaying the international symbol of accessibility, that indicates the direction to accessible
 22 building entrance and facilities (**comply with the applicable requirements found in Checklist**
 23 **Section #58 "SIGNS AND IDENTIFICATION", CBC 1127B.1.**

25 No warning signage stating: "Unauthorized vehicles parked in designated a accessible spaces
 26 not displaying distinguishing placards or license plates issued for persons with disabilities may
 27
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1 be towed away at owner's expense. Towed vehicles may be reclaimed at _____ or
 2 by telephoning _____.” **CBC1129B.**

3
 4 **LORI HOCK, dba STATE FARM INSURNACE, located at 550 Hartz Ave., Danville, CA**
 5 **and RICHARD OLNESS and ELIZABETH OLNESS**, owners, operators, occupier and lessee
 6 or lessor of **premises located at 550 Hartz Ave., Danville, CA.** The violations are: There is a
 7 lack of van handicapped parking space and a painted path of travel from the handicapped parking
 8 space to the building entrance and/or site accessible route of travel. **CBC 1114B.1.2.;** There is
 9 no sign displaying the international symbol of accessibility, that indicates the direction to
 10 accessible building entrance and facilities that comply with the applicable requirements found in
 11 **Checklist Section #58 “SIGNS AND IDENTIFICATION”, CBC 1127B.1.**

12
 13 No warning signage stating: “Unauthorized vehicles parked in designated a accessible spaces
 14 not displaying distinguishing placards or license plates issued for persons with disabilities may
 15 be towed away at owner's expense. Towed vehicles may be reclaimed at _____ or
 16 by telephoning _____.” **CBC1129B.**

17
 18 7. By this lawsuit, Plaintiff seeks damages for the violation of his Civil Rights, and Plaintiff
 19 also requests that this Court grant injunctive relief, requiring the Defendants to comply with both
 20 California and United States laws requiring access to the and its facilities for physically disabled
 21 persons so long as Defendants operate the premises as a public facility. Plaintiff and other
 22 physically disabled persons are unable to use public facilities such as those owned and operated
 23 by Defendants on a "full and equal" basis unless such facility is in compliance with the
 24 provisions of the ADA. Plaintiff is a member of that portion of the public whose rights are
 25 protected by the provisions of ADA . The acts and omissions of the Defendants complained of
 26 herein were committed in the Cities of Concord, Lafayette and Danville, California.
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8. Plaintiff **GEORGE S. LOUIE** is a "person with disabilities," or a physically handicapped person, who requires use of a wheelchair for mobility. Hereinafter, the words "physically disabled" and "physically handicapped" are used interchangeably as these words have similar or identical common usage and legal meaning. However, the legislative scheme in Part 5.5 of the Health & Safety Code uses the term "physically handicapped persons" and the Unruh Civil Rights Act, California Civil Code §§51 and 52, and the Disabled Persons Act, §§54, 54.1, 54.3 and 55, and other statutory measures refer to protection of the rights of "physically disabled persons" and of "individuals with a disability ."

9. Defendants **are State Farm Bank, State Farm Insurance Agents and/or** the owners and operators, occupiers, lesser and/or lessees of the above mentioned State Farm Insurance Office sites which are "public accommodations or facilities" subject to the requirements of the Americans With Disabilities Act of 1990 and California Civil Code §§51, 54, 54.1 et seq. Plaintiff is informed and believes that each of the Defendants herein is the agent, employee, alter ego or representative of each of the other Defendants, and performed all acts and omissions stated herein within the scope of such agency or employment or representative or alter ego capacity, and is responsible in some manner for the acts and omissions of the other Defendants in proximately causing the damage complained of herein. Further, all acts and omissions of each such Defendant were done as part of a joint venture and common enterprise among all Defendants, for which they are all jointly and severally liable.

10. Plaintiff **GEORGE S. LOUIE** was and is all times relative to this Complaint, a physically disabled person as defined for purposes of protections of the §§54ff, Civil Code, the Disabled Rights Acts, and the protections of Part 5.5 of the Health & Safety Code: "Access to Physically Handicapped Persons." Plaintiff **GEORGE S. LOUIE** , is physically disabled and often requires the use of a wheelchair; he cannot climb stairs, climb curbs, or enter narrow doorways in his wheelchair because of his disability, and needs use of the other protections required by law for the protection of disabled persons.

Public Accommodations which offer services to the public such as the STATE FARM agents and or **STATE FARM INSURANCE Office** facilities, are public accommodations and

1 facilities within the meaning of Americans with Disabilities Act of 1990. In order for a facility
2 to be considered places of public accommodation means a facility, operated by a private entity,
3 whose operations affect commerce and fall within at least one of the 12 categories **pursuant to**
4 **ADA Title III, § 36.104. Insurance Office is specifically enumerated under category (6) §**
5 **36.104** of the regulation.

7 11. On November 29, 2007, Plaintiff **GEORGE S. LOUIE** came to the subject **STATE**
8 **FARM** agents and or **STATE FARM INSURANCE Offices** in his wheelchair for the purpose
9 of conducting banking transactions. Plaintiff found that the **subject STATE FARM Agents and**
10 **or STATE FARM INSURANCE Offices** did not provide adequate access to people with
11 disabilities, including, intern alia: inaccessible parking spaces which prevented Plaintiff use of
12 these facilities. These barriers make it impossible for persons with mobility disabilities, such as
13 Plaintiff, to access the SUBJECT FACILITY without assistance.

14 12. Plaintiff **GEORGE S. LOUIE**, sustained intangible injuries. See Ronald Ray Smith v.
15 Pacific Properties and Development Corp, 359 F3d 1097,1114 (9th Cir. 2004) (noting that the
16 U.S. District Court for Nevada had fail(ed) to recognize the dignity harm to a disabled person of
17 observing... overly discriminatory conditions. Defendants have known that **these subject**
18 **STATE FARM BANK agents and or STATE FARM INSURANCE Office** site facilities,
19 violated disability accesses requirements and standards and Defendants refuse to rectify the
20 violations. It is clear that failure to act constitutes violations of the ADA.

21 13. **These STATE FARM agents and or STATE FARM INSURANCE Offices** did not
22 display signs at any door or anywhere on the premises designating any accessible
23 accommodations for use by physically disabled persons.

24 14. On information and belief, from on or about November 29, 2007 to the date of filing of
25 this Complaint, on or about May 2, 2008, there are still no accessible features at these **STATE**
26 **FARM BANKS and or STATE FARM INSURANCE Office sites** in each of the respects
27 complained of hereinabove.

15. As the result of his negative experiences upon attempting to patronize these subject **STATE FARM** Offices and or **STATE FARM INSURANCE Offices** described hereinabove, Plaintiff **GEORGE S. LOUIE** suffered violations of his Civil Rights and of his statutory rights as a disabled person to full and equal access to public facilities and further suffered physical, mental and emotional pain, and suffered embarrassment, humiliation and emotional distress, all to his damages as hereinafter prayed.

16. Plaintiff **GEORGE S. LOUIE** is informed and believes and therefore alleges that Defendants and each of them caused the subject building site location of these above-mentioned **STATE FARM** and or **STATE FARM INSURANCE Offices** to be constructed, altered and maintained in such a manner that physically disabled persons were denied full and equal access to, within and throughout said building, and full and equal use of said public facilities. Further, on information and belief, Defendants and each of the facilities in such conditions up to the present time, despite actual and constructive notice to such.

17. Defendants, and each of them, knew that the configuration of the inaccessible parking was in violation of the Civil Rights of handicapped persons, such as Plaintiff **GEORGE S. LOUIE**. Such construction, modification, ownership, operation, maintenance and practices of such a public facility is in violation of law as stated in Americans With Disabilities Act of 1990.

18. On information and belief, the subject **STATE FARM** sites and or **STATE FARM INSURANCE AGENTS** denied full and equal access to disabled persons in other respects due to non-compliance with requirements of the Americans with Disabilities Act of 1990.

19. General Damage - As a result of the refusal by Defendants and each of them to comply with statutory requirements or otherwise provide reasonable access for disabled persons to the subject Public Accommodation. **GEORGE S. LOUIE** was denied his rights to full and equal access to and use of public facilities and was discriminated against on the sole basis that he was physically disabled and used a wheelchair, and was unable to independently access the subject **STATE FARM** sites and or **STATE FARM INSURANCE Offices** or use on a "full and equal" basis the other inaccessible facilities as specified hereinabove. Denial of full and equal access to Plaintiff **GEORGE S. LOUIE** also embarrassed and humiliated Plaintiff. Defendants' acts have

1 caused Plaintiff physical and psychological pain, discomfort, suffering, emotional distress and
2 general and statutory damages.

3 20. Attorneys' Fees - As a result of Defendants' acts and omissions as hereinabove described,
4 Plaintiff has been required to incur legal costs and litigation expenses and hire an attorney in
5 order to enforce Plaintiff's right and enforce provision of the law protecting access for the
6 disabled and prohibiting discrimination against the disabled, and to take such action both in his
7 own interest and in order to enforce an important right affecting the public interest. Plaintiff
8 therefore seeks recovery in this lawsuit for all attorney's fees, litigation expenses and costs
9 incurred, pursuant to the provisions of §1021.5 of the Code of Civil Procedure. Plaintiff
10 additionally seeks attorney's fees pursuant to §§54.3 and 55 of the Civil Code.

11
12 **FIRST CAUSE OF ACTION:**
13 **VIOLATION OF DISABLED PERSONS ACT**
14 **CIVIL CODE §§54, 54.1, 54.3 ET SEQ,**

15 **DENIAL OF EQUAL ACCESS TO PHYSICALLY DISABLED PERSONS**

16 23. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the
17 factual allegations contained in paragraphs 1 through 23 of this Complaint and incorporates them
18 herein as if separately replead.

19 24. At all times relevant to this action, California Civil Code §54.1 has provided that
20 physically disabled persons are not to be discriminated against because of physical handicap or
21 disability. This section provides that:

22physically disabled persons shall be entitled to full and equal access, as other members
23 of the general public, to accommodations, advantages, airplanes, motor vehicles,...or any other
24 public conveyance or modes of transportation, telephone facilities, hotels, lodging places, places
25 of public accommodation and amusement or resort, and other places to which the general public
is invited, subject only to state or federal regulations, and applicable alike to all other persons.

26 25. California Civil Code §54.3 provides that any person or corporation who denies or
27 interferes with admittance to, or enjoyment of the public facilities as specified in §54 and §54.1
28 is liable of EACH such offense for the actual damages and any amount up to a maximum of

1 these times the amount of actual damages, but in no case less than \$4,000.00 and such attorneys'
2 fees that may be determined by the Court in addition thereto, suffered by any person denied any
3 of the rights provided in §54 and §54.1, for services necessary to enforce those rights.

4 26. Plaintiff is a person within the meaning of Civil Code §54 and §54.1 whose
5 rights have been infringed upon and violated by the Defendants as prescribed by §54.1. A
6 separate act in violation of §54.1 has been committed WHEN EVER Defendants knowingly and
7 willfully fail and refuse to provide full and equal access for physically disabled persons at **the**
8 **subject STATE FARM sites and or STATE FARM INSURANCE Offices**. Plaintiff has
9 been denied full and equal access on an ongoing basis since filing the Complaint.

10 27. Further, any violation of the Americans With Disabilities Act of 1990, (as plead in the
11 SECOND Cause of Action hereinbelow, the contents of which are replead and incorporated
12 herein, word for word, as if separately replead), also constitutes a violation of §§54 and 54.1 (d)
13 California Civil Code, thus independently justifying an award of damages and injunctive relief
14 pursuant to California law.

15 28. Plaintiff has been damaged by Defendants' wrongful conduct and seeks the relief that is
16 afforded by §§54.1, 54.3 and 55 of the Civil Code. Plaintiff seeks actual damages, treble
17 damages, preliminary and injunctive relief to enjoin and eliminate the discriminatory practices
18 of Defendants disrespecting disabled persons, and for reasonable attorneys' fees, litigation
19 expenses and costs.

20 29. The act and omission of Defendants as complained of continue on a day-to-day basis to
21 have the effect of allowing Defendants to willfully and wrongfully exclude Plaintiff and other
22 members of the public who are physically disabled from full and equal access to **the subject**
23 **STATE FARM business sites and or STATE FARM INSURANCE Offices which are**
24 public places of business. Such acts and omissions are the direct cause of humiliation and mental
25 and emotional suffering to Plaintiff and that these actions treat Plaintiff as an inferior and second
26 class citizen and serve to discriminate against his on the sole basis that he is physically disabled
27 and unable to use and have access to public facilities of the Defendants on an equal basis to that
28 available to other persons, so long as the facilities fail to provide proper and legally required

1 access for disabled persons. Said acts have proximately caused and will continue to cause
2 irreparable injury to Plaintiff if not enjoined by this Court.

3 30. WHEREFORE, Plaintiff asks this Court to enjoin any continuing refusal by Defendants to
4 grant such access to Plaintiff and to enjoin operation of the **subject STATE FARM and or**
5 **STATE FARM INSURANCE Offices** as public facilities and public places of business until
6 Defendants comply with all applicable statutory requirements related to access to the
7 handicapped, and that the Court award statutory attorneys' fees, litigation expenses and costs
8 pursuant to Civil Code §55 and Code of Civil Procedure §1021.5 and as further herein prayed
9 for.

10 WHEREFORE, Plaintiff prays for damages and injunctive relief as hereinafter stated.

11
12 **SECOND CAUSE OF ACTION:**

13 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

14 **42 USC §12101FF**

15 31. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the
16 factual allegations contained in paragraphs 1 through 30 of this Complaint and incorporates them
17 herein as if separately replead.

18 32. Pursuant to law in 1990, the United States Congress made findings per 42 USC §12101
19 regarding physically disabled persons, finding that laws were needed to more fully protect “some
20 43 million Americans with one or more physical or mental disabilities; that historically society
21 has tended to isolate and segregate individuals with disabilities” and that “such forms of
22 discrimination against individuals with disabilities continue to be a serious and pervasive social
23 problem; that the nation's proper goals regarding individuals with disabilities are to assure
24 equality of opportunity, full participation, independent living and economic self sufficiency for
25 such individuals; and that the continuing existence of unfair and unnecessary discrimination and
26 prejudice denies people with disabilities the opportunity to compete on an equal basis and to
27 pursue those opportunities of which our free society is justifiably famous.”
28

33. Congress stated as its purpose in passing the Americans with Disabilities (42 USC §12101 (B)):

(1) It is the purpose of this act to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; (3) to ensure that the Federal government plays a central role in enforcing the standards established in this act on behalf of individuals with disabilities; and (4) to invoke the sweep of Congressional authority, including the power to enforce the 14th Amendment and to regulate commerce, in order to address the major areas of discrimination faced day to day by people with disabilities.

34. As part of the Americans with Disabilities Act of 1990, Public Law 101-336, (hereafter the "ADA"), Congress passed "Title III - Public Accommodations and Services Operated by Private Entities" (42 USC 12181ff). Among the Public accommodations identified for purposes of this title were all businesses that offer any service to the public. (See (§301(7)(F)).

35. Pursuant to §302, 42 USC §12182, "No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation."

36. Although the specific prohibitions against discrimination were included, in §302(b)(2)(a)(iv), "a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities... where such removal is readily achievable;" and (v) "where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are "readily achievable." The acts of Defendants set forth herein are a violation of Plaintiff's rights under the "ADA," Public Law 101-336, and the regulations promulgated thereunder, 28 CFR Part 36ff. The standards of the ADA are also incorporated into §§54.3 and 55 of the Civil Code.

37. The removal of each of the barriers complained of by Plaintiff **GEORGE S. LOUIE** as hereinabove alleged was at all time after January 26, 1992 "readily achievable." As noted hereinabove, removal of each of the architectural barriers complained of were already required

1 under existing California law. Further, at all times since January 26, 1992, modification of or
2 removal of each of the above described individual barriers was “readily achievable” under the
3 factors specified in §301(9) of the Americans with Disabilities Act and regulations adopted
4 pursuant to that section. On information and belief, Defendants failed to “address” any of these
5 problems, even after **GEORGE S. LOUIE**’S difficulties in obtaining access were made clear to
6 Defendants.

7 38. Per §301(9), 42 USC 12181, the term “readily achievable” means “easily accomplished
8 and able to be carried out without much difficulty or expense.” Plaintiff alleges that each of the
9 items that Plaintiff has complained about hereinabove was and is “readily achievable” by the
10 Defendants under the standards set forth under §301(9) of the Americans with Disabilities Act at
11 all times since January 26, 1992. Further, if it was not “readily achievable” for Defendants to
12 remove each of such barriers, Defendants have failed to make the required services available
13 through alternative methods, which were readily achievable.

14 39. Pursuant to the Americans with Disabilities Act, 42 USC 12188ff, §308, Plaintiff is
15 entitled to the remedies and procedures set forth in §204(a) of the Civil Rights Act of 1964, 42
16 USC 2000(a) –3(a), as Plaintiff is being subjected to discrimination on the basis of disability in
17 violation of this title or has reasonable grounds for believing that he is about to be subjected to
18 discrimination in violation of §302. Further, each violation of the ADA which Plaintiff alleges is
19 occurring on a daily, continuing and ongoing basis, also constitutes a violation of §§54(c) and
20 §54.1(d) California Civil Code, further entitling Plaintiff to the rights and remedies of §54.3
21 Civil Code, including damages and attorneys’ fees and costs, and injunctive relief per §55 Civil
22 Code.

23 40. Per §308 (a) (1) (42 USC 12188), “Nothing in this section shall require a person with a
24 disability to engage in a futile gesture if such person has actually noticed that a person or
25 organization covered by this title does not intend to comply with its provisions.” Pursuant to this
26 last section, Plaintiff, on information and belief, alleges that Defendants have continued to
27 violate the law and deny the rights of Plaintiff and of other disabled persons to access this public
28 accommodation. Pursuant to §308 (b)(2)(A)(iv) ... injunctive relief shall include an order to alter

1 facilities to make such facilities readily accessible to and usable by individuals with disabilities
 2 to the extent required by this title.” Plaintiff seeks such injunctive relief.

3 41. Plaintiff seeks relief pursuant to remedies set forth in §204(a) of the Civil Rights Act of
 4 1964, (42 USC 2000 (a) –3(a), and pursuant to Federal Regulations adopted to implement the
 5 Americans with Disabilities Act of 1990.

6 WHEREFORE, Plaintiff requests relief as set forth below.

7 8 PRAYER FOR RELIEF

9 FIRST CAUSE OF ACTION – STATUTORY VIOLATIONS

- 10 1. General and compensatory damages according to proof;
- 11 2. Special and consequential damages according to proof;
- 12 3. For attorneys’ fees, litigation expenses and costs pursuant to §1021.5 of the Code of Civil
 13 Procedure, §19953 Health & Safety Code;
- 14 4. For all costs of suit;
- 15 5. For pre-judgment interest pursuant to §3291 of the Civil Code;
- 16 6. That Defendants be preliminarily and permanently enjoined from operating and
 17 maintaining **the subject STATE FARM business and or STATE FARM INSURANCE**
 18 **Offices** in violation of the Americans with Disabilities Act of 1990 or other regulations as are
 19 currently required by law;
- 20 7. Such other and further relief as the Court may deem just and proper.

21 22 23 SECOND CAUSE OF ACTION

24 FULL AND EQUAL ACCESS PER §§54 AND 54.1 CIVIL CODE

- 25 1. General and compensatory damages according to proof;
- 26 2. All damages as afforded by Civil Code §54.3 for each day on which Defendants have
 27 denied to Plaintiff equal access for the disabled;

- 1 3. Attorneys' fees, litigation expenses and costs pursuant to §54.3 and §55 of the Civil
2 Code, and §1021.5 Code of Civil Procedure;
3 4. For all costs of suit;
4 5. Pre-judgment interest pursuant to §3291 of the Civil Code;
5 6. That Defendants be enjoined from operating the **subject STATE FARM businesses and**
6 **or STATE FARM INSURANCE Offices** as a public accommodation and facility open to the
7 public, so long as disabled persons are not provided full and equal access to the accommodations
8 and facilities, as provided by §51, 54, 54.1, 55 et seq., of the Civil Code;
9 7. Such other and further relief as the Court may deem just and proper.

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14 Dated: June 25, 2008



CHARLA R. DUKE
LAW OFFICES OF CHARLA R. DUKE
Attorney for Plaintiff
GEORGE S. LOUIE

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18 **DEMAND FOR JURY TRIAL**

19 Plaintiff hereby demands a jury for all claims for which a jury is permitted.

20
21
22 Dated: June 25, 2008



CHARLA R. DUKE
LAW OFFICES OF CHARLA R. DUKE
Attorney for Plaintiff
GEORGE S. LOUIE